



## MICHIGAN CHAPTER

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May 12, 2015

To: Chairman McBroom and members of the House Oversight and Ethics Committee

RE: House Bill 4540

On behalf of our 60,000 members and supporters in Michigan, **the Sierra Club urges a NO vote on HB 4540 (Heise)**, a bill that would amend Michigan's Freedom of Information Act to permanently block public access to energy system safety records in Michigan. This would include high-risk pipelines like the one running through the Straits of Mackinac operated by the controversial Canadian oil conglomerate Enbridge, Inc.

Enbridge's twin Line 5 pipelines through the Straits of Mackinac have been the subject of intense public interest since it was publicly revealed in early 2014 that the 60-year old lines pose a serious threat to the Great Lakes and northern Michigan communities and businesses. A pipeline spill here would contaminate the Great Lakes and collapse the northern Michigan tourist economy. Michigan citizens need to know more, not less, about the safety of Enbridge's pipelines and all pipelines in Michigan. This bill won't make us safer: it will do the opposite. It was the oil and gas industry's failures to comply with safety regulations and protocols that caused the largest inland oil spill in America in Marshall, Michigan, along with dozens of other spills across the nation. The industry's failures are what pose an immediate threat to property, communities and the environment, not the public's right to know about those failures.

HB 4540, as introduced, would preclude property owners from finding out basic details about the pipelines that run through their property. Basic information "about the production, generation, transportation, transmission, or distribution of fuel or energy" would be exempt from Michigan's Freedom of Information Act under this proposal. That means state-level bureaucrats that have been given information by a pipeline company that has access to your property (e.g. Enbridge, or natural gas pipeline companies proposing the Vector and ET Rover pipelines) would not be allowed to tell you what materials are getting pumped through the pipeline on your property, where that product is going, or what plans the company has in the event that the pipeline ruptures on your property. HB 4540 would potentially also block citizens from finding out information about the electric power plants and oil refineries putting pollution into their water, their air, and their communities. Michigan's laws should protect Michigan's property owners and public health. But HB4540 would, instead, put property owners and the public health at risk.

In addition, this legislation is unnecessary because federal rules already address national security issues when it comes to pipelines. Moreover, Michigan's FOIA law already has a provision that exempts from disclosure records that would jeopardize our safety and security. The exemption proposed in HB 4540 for "critical energy infrastructure" is excessive since information that would make infrastructure vulnerable to a terrorist attack is already exempt from disclosure.

Not only is this legislation unnecessary, the language in it is so broad it could have major unintended consequences. Exempting information that "could be useful to a person planning an attack on critical energy infrastructure" could block access to all aspects of pipeline and electricity



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infrastructure/operations, including information that has nothing to do with safety or security. At a minimum, this definition and clause must be limited to already existing language from federal rules.

HB 4540 would result in Michigan citizens having less access to information about interstate pipeline safety than citizens of other states. Michigan citizens should not be treated as less trustworthy than residents of neighboring states.

The current FOIA appeal process is already overly burdensome. The process includes an appeal to the head of an agency, which typically confirms the denial, and then another appeal to the circuit court. People should not have to go to circuit court in order to see public records that may shed light on pipeline safety, maintenance, and potential environmental catastrophes. HB 4540 would make the process even more burdensome for Michigan's citizens.

**For these reasons, we urge you to vote NO on HB 4540. Votes pertaining to this bill will be included in the Sierra Club's legislative scorecard.**

Sincerely,

Mike Berkowitz  
Legislative and Political Director  
Sierra Club Michigan Chapter